

APPEAL NO. 040253
FILED MARCH 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 10, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include the cervical spine MRI findings dated May 29, 2002 (1. Advanced osteoarthritis and degenerative disc disease at multiple cervical vertebral disc levels as discussed in detail above. 2. The most pronounced disease is at the C5-6 level where there is significant impingement upon the cervical cord caused by posterior spur formation, circumferential bulging disc and a small focal central herniated disc at this level), bilateral carpal tunnel syndrome, left ulnar neuropathy with entrapment at the Guyon's canal, and cervical radiculopathy at C6-7. The claimant appealed on sufficiency of the evidence grounds, and asserted that the hearing officer's compensable injury and disability determinations be reversed, although compensability and disability were not at issue in this case. The parties stipulated that the claimant sustained a compensable injury on _____. The appeal file does not contain a response from the respondent (carrier).

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was mailed to the claimant on Monday, December 22, 2003, under a cover letter of the same date. The claimant does not indicate when he received a copy of the hearing officer's decision. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended August 29, 1999, unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed, or in this case, Saturday, December 27, 2003.

Section 410.202(a) provides that a request for appeal shall be filed not later than the 15th day after the date on which the hearing officer's decision is received. Rule 143.3(c) provides that a request for appeal is presumed to have been timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. The 15th day after the deemed date of receipt of December 27, 2003, excluding Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code, was Tuesday, January 20, 2004. The claimant faxed his request for review on Tuesday, February 3, 2004, two weeks after the 15-day deadline specified in Rule 143.3(c), and the claimant's appeal is stamped as

received by the Commission on February 3, 2003. The claimant's appeal is, therefore, untimely.

The claimant's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge